

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRYAN STEPHEN FLOOD,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 2:25-cv-00254-DGE

ORDER DENYING MOTION FOR
RESTORATION OF BENEFITS
(DKT. NO. 10) AND ORDER TO
SHOW CAUSE

I. INTRODUCTION

Plaintiff Bryan Flood is self-represented and has made a motion for restoration of his Social Security benefits. (Dkt. No. 10.) Plaintiff's short motion states that the dispute concerns Injury Related Work Expenses, that Social Security began withholding benefits after he filed his case—which he suggests is evidence of impropriety, and that he should be paid while this case is pending because he cannot afford rent and basic living expenses without Social Security benefits. (*See id.*)

1 The Government provides additional detail. Plaintiff was sent a letter by Social Security
2 on February 18, 2025 stating that his benefits were being withheld because he has been doing
3 substantial gainful work, and that the agency will not pay benefits from January to September
4 2023, January to June 2024, and January 2025 through the present. (Dkt. No. 12-1 at 1.)
5 Because the agency only stopped checks in February 2025, it claims that it overpaid Plaintiff
6 \$43,256.00. (*Id.*)

7 II. ANALYSIS

8 At this time, Plaintiff's motion is premature. This Court cannot review a Social Security
9 determination until the agency's decision is final, absent a constitutional claim, which is not
10 present here. 42 U.S.C. § 405(h); *Subia v. Comm'r of Soc. Sec.*, 264 F.3d 899, 902 (9th Cir.
11 2001). The agency's decision with respect to Plaintiff's benefits is not final, since Plaintiff can
12 appeal it within the agency. As the letter explains, Plaintiff has 60 days from the date he received
13 the letter to request reconsideration of the decision. (Dkt. No. 12-1 at 3.) Plaintiff also has the
14 right to request that the agency waive his obligation to repay the overpayment, if the
15 overpayment was not his fault or if he could not pay for living expenses if he had to repay the
16 overpayment. (*Id.*) The letter states that he may use forms SSA-561-U2 to request
17 reconsideration or form SSA-632-BK to request waiver.¹ (*Id.*) As the Government's brief
18 explains, if Plaintiff's reconsideration is not successful, he may ask an Administrative Law Judge
19 (ALJ) to review his case, he may then ask the Appeals Council to review the ALJ's decision, and
20 only after those steps can he sue in this court. *See* 20 C.F.R. § 404.900(a).

21 III. ORDER

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23 ¹ These forms are publicly available online: <https://www.ssa.gov/forms/ssa-561.html> (Form
24 SSA-561), <https://www.ssa.gov/forms/ssa-632.html> (Form SSA-632). The letter also provides
information about assistance by phone. (Dkt. No. 12-1 at 5.)

Therefore, the motion is DENIED. Plaintiff should file for reconsideration and/or waiver with Social Security before the deadline.

Additionally, the Court ORDERS Plaintiff to show cause no later than **April 18, 2025** why this case should not be dismissed for failure to state a claim due to failure to exhaust administrative remedies, as discussed above.

The Clerk is directed to calendar this event.

Dated this 8th day of April, 2025.

A handwritten signature in black ink, appearing to be 'D. Estudillo', written over a horizontal line.

David G. Estudillo
United States District Judge